

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LEWIS COUNTY, WASHINGTON**

IN RE:

AUTHORIZING AN INTERLOCAL AGREEMENT)
BETWEEN LEWIS COUNTY AND THE STATE)
DEPARTMENT OF COMMUNITY, TRADE, AND)
ECONOMIC DEVELOPMENT FOR GRANT)
FUNDING FOR PLANNING PURPOSES)

139
RESOLUTION No. 05- 138

WHEREAS, an interlocal agreement (contract no. 505-62600-035) has been prepared between Lewis County and the State Department of Community, Trade and Economic Development for the purpose of grant funding for planning purposes under the Growth Management Act; and

WHEREAS, the Board of Lewis County Commissioners has had an opportunity to review the interlocal agreement, attached as Exhibit A; and

WHEREAS, it appears to be in the best public interest to authorize this interlocal agreement with the Department of Community, Trade and Economic Development,
NOW THEREFORE

BE IT RESOLVED that this interlocal agreement (contract no. 505-62600-035) between Lewis County and the Department of Community, Trade and Economic Development is hereby approved and the Director of Community Development is authorized to sign the contract on behalf of Lewis County.

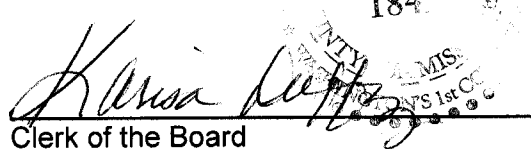
DONE IN OPEN SESSION this 16th day of May, 2005.

APPROVED AS TO FORM:

Jeremy Randolph, Prosecuting Attorney


Deputy Prosecuting Attorney

ATTEST:


Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

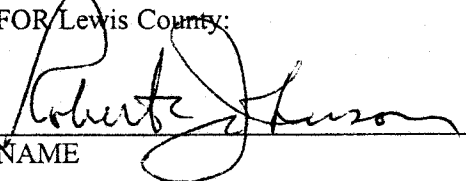

Chairman


Member


Member

Resolution 05- 139

WASHINGTON STATE DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT
GROWTH MANAGEMENT SERVICES

1. GRANTEE Lewis County 350 N. Market Boulevard Chehalis, Washington 98532-2626	2. AWARD DATE: September 8, 2004	3. END DATE: June 30, 2005
4. GRANTEE REPRESENTATIVE: NAME: Phillip Rupp PHONE: (360) 740-1146 FAX: (360) 740-1245 E-MAIL: pdrupp@co.lewis.wa.us	5. CTED REPRESENTATIVE: NAME: Karin Berkholtz PHONE: (360) 725-4025 FAX: E-MAIL: karinb@cted.wa.gov	
6. SOURCE OF STATE FUNDS: (GROWTH MANAGEMENT SERVICES) \$50,000	7. GRANTEE TAX IDENTIFICATION NUMBER: 91-6001351	
8. SUMMARY: To update the Comprehensive Plan		
The DEPARTMENT and GRANTEE acknowledge and accept the terms of this CONTRACT and attachments and have executed this CONTRACT as of the date and year written below. The rights and obligations of both parties to this CONTRACT are governed by this CONTRACT and other documents incorporated by reference: CONTRACT Terms and Conditions including Attachment "A," Work Plan and Attachment "B," Budget.		
FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT: <hr/> Nancy K. Ousley, Assistant Director Local Government Division DATE: _____	FOR Lewis County:  NAME Community Development Director TITLE DATE: <u>May 16, 2005</u>	
APPROVED AS TO FORM ONLY: Signature on file _____ Melissa Burke-Cain, Assistant Attorney General DATE: <u>October 20, 2003</u>		

CONTRACT TERMS & CONDITIONS

SECTION 1 - PREAMBLE

This CONTRACT, entered into by Lewis County (hereinafter referred to as the GRANTEE), and the Department of Community, Trade and Economic Development (hereinafter referred to as the DEPARTMENT), WITNESSES THAT:

WHEREAS, the DEPARTMENT has the responsibility under RCW 43.330.050(5) to provide financial and technical assistance to the communities of the state, to assist in improving the delivery of federal, state, and local programs; and to provide communities with opportunities for productive and coordinated development beneficial to the well-being of communities and their residents; and

WHEREAS, the DEPARTMENT has the statutory authority under RCW 43.330.120 to offer technical and financial assistance to cities and counties planning under the Growth Management Act; and

WHEREAS, the DEPARTMENT has selected the GRANTEE to receive funds and the GRANTEE shall use the funds to undertake a project which furthers the goals and objectives of the DEPARTMENT's Growth Management Services Unit in accordance with its mission.

THEREFORE, the parties mutually agree to the following terms and conditions:

SECTION 2 - WORK PLAN

Over the course of the CONTRACT period, the GRANTEE shall accomplish the activities described in Attachment "A": Work Plan that is incorporated into the CONTRACT by reference.

SECTION 3 - FUNDING

The total funds to be reimbursed to the GRANTEE for costs incurred during the CONTRACT period shall be a sum not to exceed \$50,000.

SECTION 4 - BUDGET

An approved budget by category of expenditure is included as Attachment "B" of this CONTRACT that is incorporated into the CONTRACT by reference. The total amount of transfers of funds between line item budget categories shall be as specified in Attachment "B." If the cumulative amount of these transfers exceeds or is expected to exceed the amount specified in Attachment "B," the total project budget shall be subject to justification and negotiation of a CONTRACT amendment by the GRANTEE and the DEPARTMENT.

SECTION 5 - CONTRACT PERIOD

A. The effective date of this CONTRACT shall be the date all parties sign and complete execution of the CONTRACT. This CONTRACT shall terminate on June 30, 2005 except for any remaining obligations of the GRANTEE as may exist under Section 7.

B. Costs to be reimbursed by the DEPARTMENT under this CONTRACT are those eligible costs incurred during the performance of the CONTRACT work program on or after July 1, 2004.

SECTION 6 - REIMBURSEMENT PROVISIONS

- A. Funds will be disbursed per the schedule established in Attachment "B."
- B. Only eligible project-related costs will be reimbursed. Ineligible costs include, but are not necessarily limited to: capital expenses, such as land acquisition or construction costs; purchase of machinery; hosting expenses, such as meals, lodging, or transportation incurred by persons other than staff and volunteers working directly on the project; lobbying or political influencing; and other costs which are not directly related to the project.
- C. Within twenty (20) days after receiving and approving the voucher, the DEPARTMENT shall remit to the GRANTEE a warrant covering the DEPARTMENT's share of the costs incurred for work performed.
- D. The final invoice voucher covering costs incurred for work performed on or before June 30, 2005, must be submitted by the GRANTEE prior to July 10, 2005 to allow the DEPARTMENT sufficient time to process it. Payment of the final voucher shall be contingent upon the DEPARTMENT's receipt and approval of any products or deliverables designated in Attachment "A."

SECTION 7 - REPORTS

- A. The GRANTEE shall submit a brief progress report on a form approved by the DEPARTMENT which describes the progress made on the work program outlined in Attachment "A." Progress reports will be submitted on a Semiannual calendar cycle. The Semiannual progress report shall also provide detail on the dedicated matching funds.
- B. The GRANTEE shall furnish, along with or prior to submitting the final invoice voucher, two copies of each final product designated in Attachment "A."

SECTION 8 - ACKNOWLEDGMENT OF STATE FUNDING

The GRANTEE shall provide all project-related press releases to the DEPARTMENT. Press releases shall identify the DEPARTMENT as a project financier.

Publications such as reports and pamphlets which are developed totally or in part with funds provided under this CONTRACT shall give credit to the funding source by including the following: "Funds made available through the Washington State Department of Community, Trade and Economic Development."

SECTION 9 - DOCUMENTATION, MONITORING, AND AUDIT

During the CONTRACT period and following its termination, the GRANTEE shall follow accounting procedures and shall maintain books, records, documents, and other evidence which sufficiently and properly reflect all project specific costs expended in the performance of this CONTRACT. The Office of the State Auditor or any persons duly authorized by the DEPARTMENT shall have full access to and the right to inspect, excerpt, audit, or examine any of these materials at all reasonable times for a period of six years after termination of the CONTRACT.

The DEPARTMENT may require a copy of the GRANTEE's most recent audit and management letter.

The DEPARTMENT may require the GRANTEE to obtain an audit for specific expenditures under this CONTRACT. Costs of a required audit are an allowable expense.

SECTION 10 - RECAPTURE PROVISIONS

In the event that the GRANTEE fails to expend funds under this CONTRACT in accordance with state laws and/or the provisions of this CONTRACT, the DEPARTMENT reserves the right to recapture state funds in an amount equivalent to the extent of the noncompliance.

Such right of recapture shall exist for a period not to exceed six years following CONTRACT termination. Repayment by the GRANTEE of funds under this recapture provision shall occur within 30 days of demand. In the event that the DEPARTMENT is required to institute legal proceedings to enforce the recapture provision, the DEPARTMENT shall be entitled to its costs thereof, including reasonable attorney's fees.

SECTION 11 - CONTRACT AMENDMENTS

- A. The DEPARTMENT or the GRANTEE may request changes to the CONTRACT or its provisions. It is agreed and understood that no material or substantive alteration or variation of the terms of this CONTRACT shall be valid unless made in writing and signed by both parties. Any oral understanding or agreements shall not be binding unless made in writing and signed by both parties.
- B. CONTRACT amendments shall not be made which result in an extension of the CONTRACT period beyond June 30, 2005.

SECTION 12 - NONDISCRIMINATION CLAUSE

During the performance of this CONTRACT, the GRANTEE shall comply with all federal and state nondiscrimination laws, including, but not limited to chapter 49.60 RCW. Washington's Law Against Discrimination, and 42, U.S.C. 12101 et seq., the Americans with Disabilities Act (ADA).

In the event of the GRANTEE's noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy, this CONTRACT may be rescinded, canceled, or terminated in whole or in part, and the GRANTEE may be declared ineligible for further CONTRACTS with the DEPARTMENT. The GRANTEE shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with Section 20.

SECTION 13 - TERMINATION OF CONTRACT

- A. If, through any cause, the GRANTEE shall fail to fulfill its obligations under this CONTRACT in a timely and proper manner; or if the GRANTEE shall violate any of its covenants, agreements, or stipulations; the DEPARTMENT shall have the right to terminate this CONTRACT. The DEPARTMENT may withhold the balance of state funding if such default or violation is not corrected within twenty (20) days after the DEPARTMENT submits written notice to the GRANTEE describing such default or violation.
- B. Notwithstanding any provisions of this CONTRACT, either party may terminate this CONTRACT by providing written notice of such termination, specifying the effective date thereof, at least thirty (30) days prior to such date.
- C. Reimbursement for GRANTEE work performed, and not otherwise paid for by the DEPARTMENT prior to the effective date of such terminations, shall be as the DEPARTMENT reasonably determines.

- D. In the event funding from the state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this CONTRACT and prior to normal completion, the DEPARTMENT may unilaterally reduce the scope of work and budget or terminate this CONTRACT.

SECTION 14 - GRANTEE NOT EMPLOYEE OF DEPARTMENT

The GRANTEE, its employees, or agents performing under this CONTRACT are not deemed to be employees neither of the DEPARTMENT nor as agents of the DEPARTMENT in any manner whatsoever. The GRANTEE will not hold itself out as or claim to be an officer or employee of the DEPARTMENT or of the State of Washington and will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the DEPARTMENT or of the State of Washington.

SECTION 15 - USE OF SUBCONTRACTS

The GRANTEE may enter into subcontracts for any of the work contemplated under this CONTRACT without obtaining prior written approval of the DEPARTMENT. The GRANTEE shall follow local policies regarding procurement, or in absence of local policies, shall use a competitive procurement process.

Each CONTRACT that the GRANTEE enters into with subcontractors, creditors and others shall contain a clause providing notice that the state and the DEPARTMENT are not responsible for any legal obligation, financial or otherwise, incurred by the GRANTEE.

The DEPARTMENT reserves the right to monitor the subcontractor selection process and contractual documents either during or following the selection process.

The GRANTEE is responsible for the performance of any subcontractors. The GRANTEE shall require all subcontractors to follow the same rules and regulations as described in this document. All subcontractors must be monitored by the GRANTEE to ensure fiscal accountability.

SECTION 16 - OWNERSHIP OF PROJECT MATERIALS

All finished or unfinished documents, data, studies, surveys, drawings, models, photographs, films, duplicating plates, computer disks and reports prepared by the GRANTEE under this CONTRACT shall be works for hire under U.S. copyright law. The DEPARTMENT may duplicate, use, and disclose in any manner and for any purpose whatsoever, all materials prepared under this CONTRACT.

The GRANTEE must have prior approval of the DEPARTMENT to produce patents, copyrights, patent rights, inventions, original books, manuals, films, or other patentable or copyrightable materials, in whole or in part with funds received under this CONTRACT. The DEPARTMENT reserves the right to determine whether protection of inventions of discovery shall be disposed of and administered in order to protect the public interest. Before the GRANTEE copyrights any materials produced with funds under this CONTRACT, the DEPARTMENT reserves the right to negotiate a reasonable royalty fee and agreement.

SECTION 17 - TRAVEL AND SUBSISTENCE REIMBURSEMENT

Travel and subsistence reimbursement shall be made in accordance with the guidelines followed by the GRANTEE in the course of normal operations. In the absence of local provisions, per diem rates and travel allowances shall be paid in accordance with rates set for state employees pursuant to RCW 43.03.050 and RCW 43.03.060 as now existing or hereafter amended.

SECTION 18 - SPECIAL PROVISION

The DEPARTMENT's failure to insist upon the strict performance of any provision of this CONTRACT or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this CONTRACT.

SECTION 19 - HOLD HARMLESS

The GRANTEE agrees to defend, hold harmless, and indemnify the State of Washington and the DEPARTMENT, their officers, agents, employees, and assigns against any and all damages of claims from damages resulting or allegedly resulting from the GRANTEE's performance of activities under the terms of this CONTRACT.

SECTION 20 - DISPUTE RESOLUTION

Except as otherwise provided in this CONTRACT, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute hearing. The parties shall select a dispute resolution team to resolve the dispute. The team shall consist of a representative appointed by the DEPARTMENT, a representative appointed by the GRANTEE, and a third party mutually agreed upon by both parties. The team shall attempt, by majority vote, to resolve the dispute. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

SECTION 21 - GOVERNING LAW AND VENUE

The CONTRACT shall be construed and enforced in accordance with, and the laws of the State of Washington hereof shall govern the validity and performance. Venue of any suit between the parties arising out of this CONTRACT shall be the Superior Court of Thurston County, Washington.

SECTION 22 - APPLICABLE LAWS AND REGULATIONS

The GRANTEE shall comply with all existing applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

SECTION 23 - SEVERABILITY

In the event any term or condition of this CONTRACT or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this CONTRACT which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this CONTRACT are declared severable.

SECTION 24 - ENTIRE AGREEMENT

This contract, including referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

The attachments to this agreement are as follows:

ATTACHMENT A: "Work Plan," consisting of 2 page(s); and

ATTACHMENT B: "Budget," consisting of 1 page(s).

ATTACHMENT A: WORK PLAN**Grantee:** Lewis County**Summary:** To update the Comprehensive Plan**Estimated Completion Dates & Activities:**

Goals/ Actions/ Deliverables	Description	Start Date	End Date
Goal 1	To produce draft updates ready for BOCC and CTED review of the CAO, UGA, Natural Resource Lands, Housing, Transportation and Capital Facilities elements and sub elements of the comprehensive plan.		
Action 1	Inventory and Report--Critical Areas inventory, including maps, best available science documentation, studies, etc. Report.	7/1/2004	9/1/2004
Action 3	Comp. Plan UGA update--Update Urban Growth Area sub-element. Recommendation to BOCC.	7/1/2004	9/1/2004
Deliverable 4	Draft UGA sub-element	9/1/2004	9/1/2004
Action 5	Comp. Plan Natural Resource Lands Sub-element update--Update the Natural Resource Lands Sub-element. Review and revise as necessary. Draft recommendations to BOCC	1/1/2005	6/30/2005
Deliverable 6	Preliminary Draft Natural Resource Lands sub-element	6/30/2005	6/30/2005
Action 7	Housing Element Update Review and revise as necessary the Housing Element. Draft recommendations to the BOCC	1/1/2005	6/30/2005
Deliverable 8	Preliminary Draft Housing Element Update	6/30/2005	6/30/2005
Action 9	Transportation Element Update--Review and revise as necessary the Transportation Element. Draft recommendations to the BOCC	8/1/2004	2/1/2005
Action 10	Draft Transportation update element	2/1/2005	2/1/2005
Action 11	Capital Facilities Element Update-- Review and revise a necessary the Capital Facilities Element. Draft Recommendations to the BOCC	8/1/2004	6/1/2005
Deliverable 12	Draft CFP element	6/1/2005	6/1/2005

Status Reports Due By:

12/15/2004

6/15/2005

ATTACHMENT B: BUDGET

The budget shall consist of the following elements:

1. Category of Expenditure

	SFY 2004	SFY 2005	Total
Salaries and Benefits	\$ 0	\$ 46,000	\$ 46,000
Goods and Supplies	\$ 0	\$ 5,000	\$ 5,000
Professional Services	\$ 0	\$ 65,000	\$ 65,000
Other Goods and Services	\$ 0	\$ 10,000	\$ 10,000
Total	\$ 0	\$ 126,000	\$ 126,000

2. Budget Summary

	SFY 2004	SFY 2005	Total
CTED Funds	\$ 0	\$ 50,000	\$ 50,000
Other Funds	\$ 0	\$ 76,000	\$ 76,000
Total	\$ 0	\$ 126,000	\$ 126,000

3. Payment Disbursement Schedule

Upon final signing of contract and before June 30, 2005	\$ 25,000
After submission of first status report and before June 30, 2005	\$ 20,000
Upon completion of the contract and before June 30, 2005	\$ 5,000

4. Special Budget Provisions

- A. For CONTRACTS over \$30,000 the total amount of transfers of funds between line item budget categories shall not exceed ten (10) percent of the total budget. If the cumulative amount of these transfers exceeds or is expected to exceed ten percent, the total budget shall be subject to justification and negotiation of a CONTRACT amendment by the GRANTEE and the DEPARTMENT.
- B. For CONTRACTS under \$30,000 the total amount of transfers of funds between line item budget categories shall not exceed twenty (20) percent of the total budget. If the cumulative amount of these transfers exceeds or is expected to exceed twenty percent, the total budget shall be subject to justification and negotiation of a CONTRACT amendment by the GRANTEE and the DEPARTMENT.
- C. A sum of ten (10) percent of funds shall be withheld until all tasks, activities, and final products defined in ATTACHMENT "A" have been successfully completed by the GRANTEE and accepted fully by the DEPARTMENT.

FORM A19-1A	STATE OF WASHINGTON INVOICE VOUCHER
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AGENCY USE ONLY	
AGENCY NO.	CONTRACT OR GA AUTH. NO.
103	S05-62600-035

AGENCY NAME
Department of Community, Trade & Economic Development Growth Managment Services PO Box 48350 Olympia, WA 98504-8350 Attn: Keith Maw
VENDOR OR CLAIMANT (warrant is to be payable to)
Lewis County 350 N. Market Blvd Chehalis, Washington 98532 ATTN: Suzette Smith

INSTRUCTIONS TO VENDOR OR CLAIMANT:
In the absence of a detailed invoice, submit this form to claim payment for materials, mechandise or services. Show complete detail for each item.
Vendor's Certificate: I hereby certify under penalty of perjury that the items and totals listed herein are proper charges for materials, merchandise or services furnished to the State of Washington, and that all goods furnished and/or services rendered have been provided without discrimination because of age, sex, marital status, rare, creed, color, national origin, handicap, religion, or Vietnam era or disabled verteran status.
By: _____ (Sign in ink)
(Title) _____ (Date) _____

FEDERAL I.D. NO. OR SOCIAL SECURITY NO. 91-6001351	RECEIVED BY	DATE RECEIVED
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DATE	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
	First Payment GMA Update Grant			\$25,000

PREPARED BY (Fiscal)							DATE		DIVISION APPROVAL			DATE	
DOC DATE				CURRENT DOC NO			REF DOC NO			VENDOR NUMBER		VENDOR MESSAGE GMA Update Grant	
SUF	TRANS CODE	M O D	FUND	APPN INDEX	PROGRAM INDEX	SUB OBJ	SUB SUB OBJ	CNTY	CITY	PROJECT	AMOUNT	INVOICE NUMBER	GENERAL LEDGER
			001	012	62600	NZ	0035			6D5B	\$25,000	S05-62600-035	
APPROVED FOR PAYMENT BY FISCAL								DATE		WARRANT TOTAL		\$25,000	